

**COUNTIES AND CITIES—CONTRACTS—COMPETITIVE
BIDDING—AMOUNT****CHAPTER 853****H. B. No. 2368**

An Act relating to the requirement that counties and cities submit certain contracts to competitive bidding.

Be it enacted by the Legislature of the State of Texas:

Section 1. Section 2, Bond and Warrant Law of 1931 (Article 2368a, Vernon's Texas Civil Statutes) is revised¹ to read as follows:

Sec. 2. (a) No county, acting through its Commissioners Court, and no city in this state shall hereafter make any contract calling for or requiring an expenditure or payment in an amount exceeding five thousand dollars (\$5,000.00) out of any fund or funds of any city or county or subdivision of any county creating or imposing an obligation or liability of any nature or character upon such county or any subdivision of such county, or upon such city, without first submitting such proposed contract to competitive bids.

(b) Notice of the time and place when and where such contracts shall be let shall be published in such county (if concerning a county contract or contracts for such subdivision of such county) and in such city, (if concerning a city contract), once a week for two (2) consecutive weeks prior to the time set for letting such contract, the date of the first publication to be at least fourteen (14) days prior to the date set for letting said contract; and said contract shall be let to the lowest responsible bidder. The court and/or governing body shall have the right to reject any and all bids, and if the contract is for the construction of public works, then the successful bidder shall be required to give a good and sufficient bond in the full amount of the contract price, for the faithful performance of such contract, executed by some surety company authorized to do business in this state in accordance with the provisions of Article 5160, Revised Statutes of 1925, and the amendments thereto. However, the city or county in making any contract calling for or requiring the expenditure or payment of less than Fifty Thousand Dollars (\$50,000.00) may, in lieu of the bond requirement, provide in the contract that no money will be paid to the contractor until completion and acceptance of the work by the city or county. If there is no newspaper published in such county, the notice of the letting of such contract by such county shall be given by causing notice thereof to be posted at the County Court House door for fourteen (14) days prior to the time of letting such contract. If there is no newspaper published in such city, then the notice of letting such contract shall be given by causing notice thereof to be posted at the City Hall for fourteen (14) days prior to the time of letting such contract. Provided, that in case of public calamity, where it becomes necessary to act at once to appropriate money to relieve the necessity of the citizens, or to preserve the property of such county, subdivision, or city, or when it is necessary to preserve or protect the public health of the citizens of such county or city, or in case of unforeseen damage to public property, machinery or equipment, this provision shall

1. Vernon's Ann.Civ.St. art. 2368a, § 2.

not apply; and provided further, as to contracts for personal or professional services; work done by such county or city and paid for by the day, as such work progresses; and the purchase of land and right-of-way for authorized needs and purposes, the provisions hereof requiring competitive bids shall not apply and in such cases the notice herein provided shall be given but only with respect to an intention to issue time warrants with right of referendum as contemplated in Sections 3 and 4 hereof respectively.

(c) Provisions in reference to notice to bidders, advertisement thereof, requirements as to the taking of sealed bids based upon specifications for public improvements or purchases, and the manner of letting of contracts, as contained in the charter of a city, if in conflict with the provisions of this Act, shall be followed in such city notwithstanding any other provisions of this Act. The provisions of this Act and of Article 5160, Revised Statutes of 1925, as amended, relating to the furnishing of surety bonds by contractors may be adopted by ordinance of the governing body of a city, notwithstanding conflicting city charter provisions.

(d) Any and all such contracts or agreements hereafter made by any county or city in this state, without complying with the terms of this section, shall be void and shall not be enforceable in any court of this state and the performance of same and the payment of any money thereunder may be enjoined by any property taxpaying citizen of such county or city.

Sec. 2. Section 6(a), The Certificate of Obligation Act of 1971, as amended (Article 2368a.1, Vernon's Texas Civil Statutes), is amended² to read as follows:

(a) Except as provided herein, the governing body of an issuer shall hereafter make no contract calling for or requiring the expenditure or payment or creating or imposing an obligation or liability of any nature upon such city, county, or subdivision of the county in an amount exceeding \$5,000 without first submitting such proposed contract to competitive bids.

Sec. 3. Subsection (a-1), Section 6, The Certificate of Obligation Act of 1971, as added (Article 2368a.1, Vernon's Texas Civil Statutes), is repealed.³

Sec. 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed by the House on May 15, 1981: Yeas 144, Nays 2, 2 present, not voting; House refused to concur in Senate amendments to H. B. No. 2368 on May 31, 1981, by a non-record vote, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H. B. No. 2368 on June 1, 1981: Yeas 133, Nays 8, 1 present, not voting; passed by the Senate, with amendments, on May 30, 1981: Yeas 31, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; Senate adopted the conference committee report of H. B. No. 2368 on June 1, 1981: Yeas 30, Nays 1.

Approved June 17, 1981.

Effective June 17, 1981.

2. Vernon's Ann.Civ.St. art. 2368a.1, § 6 (a). 3. Vernon's Ann.Civ.St. art. 2368a.1, § 6, subsec. (a-1), repealed.